

COPY

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ATTORNEYS FOR PETITIONER

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

RONALD MOSCHETTA,

Petitioner,

vs.

MONICA J. LINDEEN, Commissioner of
Securities and Insurance, Montana State Auditor,

Respondent.

Cause No. DV-2010-685
Hon. Seeley

VERIFIED PETITION FOR JUDICIAL REVIEW OF FINAL AGENCY ACTION

Pursuant to MCA § 2-4-702 and the Securities Act of Montana, MCA § 30-10-308, the
Petitioner, Ronald Moschetta, petitions this Court for judicial review of the *Final Agency Decision*
and Order and all other actions, administrative, adjudicative or otherwise, of the Commissioner of
Securities and Insurance, Montana State Auditor's Office (the "Commissioner") in the matter titled:
In The Matter of RONALD MOSCHETTA, individually and in his capacity as a securities sales
person for Strasourger Pearson Tulcin Wulff Inc., and STRASOURGER PEARSON TULCIN
WULFF INC., Commissioner Case No. SEC-2009-14. A copy of the *Final Agency Decision and*
Order ("Final Order") is attached to this Petition as Exhibit 1.

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I.
FACTS UPON WHICH JURISDICTION AND VENUE ARE BASED
(MCA § 2-4-702(2)(b))

1. Petitioner Ronald Moschetta ("Moschetta") is a resident of the State of New York. Petitioner Moschetta is a securities broker who maintains a principal office within the State of New York.

2. Strasbourger Pearson Tulcin Wolff, Inc. ("Strasbourger") was a New York corporation. Strasbourger was a brokerage house with its principal office located within the State of New York. Strasbourger is no longer in business.

3. Petitioner was a securities broker for Strasbourger when Strasbourger was in business.

4. The State Auditor's Office, in its capacity as the Commissioner of Securities, is an administrative agency of the State of Montana.

5. On May 18, 2010, the Commissioner entered the *Final Order* upon the Department's filing of a *Motion for Entry of Default Judgment* ("*Motion for Default*") against Petitioner and Strasbourger.

6. Petitioner's substantial rights have been prejudiced by the Commissioner's issuance of the *Final Order* in violation of MCA § 2-4-704(2). Specifically, the *Final Order* requires Petitioner to:

- a. pay a \$2,000.00 administrative fine to the State of Montana that he already paid;
- b. pay Montana consumers Barry and Stephanie Clark \$50,000.00 in restitution although Petitioner already made full restitution those Montana consumers; and
- c. pay an additional \$40,000.00 in administrative fines to the State of Montana for noncompliance with the *Consent Order*.

Final Order. Additionally, the *Final Order* permanently bars Petitioner from registration and license as a securities broker in the State of Montana.

7. Moschetta has exhausted all known administrative remedies available and is aggrieved by the final written decision of the Commissioner.

8. Under MCA § 2-4-702, this Court has jurisdiction to review agency actions.

9. This Petition is filed within sixty (60) days of service the Commissioner's *Final Order*, dated May 18, 2010. MCA § 30-10-308.

10. Because the Commissioner's principal office is located in Lewis and Clark County, Montana, venue is proper in this Court. MCA § 2-4-702(2)(a).

II. GENERAL FACTS

11. In April 2009, Petitioner and Strasbourger entered into a *Consent Agreement and Order* (the “*Consent Order*”) with the Montana Securities Department (the “Department”) relating to Petitioner’s and Strasbourger’s alleged violations of the Securities Act of Montana by making unregistered solicited securities transactions in the State of Montana. A copy of the *Consent Order* is attached to this Petition as Exhibit 2.

12. The *Consent Order* required Petitioner and Strasbourger to pay an administrative fee to the State of Montana of \$2,000.00, make a \$1,500.00 contribution to the Investor Protection Fund, and offer to make restitution to Barry and Stephanie Clark (the “Clarks”) in the amount of \$51,170.06.

13. Strasbourger paid \$1,500.00 to the Investor Protection Fund as required by the *Consent Order*.

14. In May 2009, Strasbourger presented a \$2,000.00 check to the State of Montana to pay the administrative fee required by the *Consent Order*. Unbeknownst to Petitioner, Strasbourger's bank had terminated Strasbourger's line of credit upon which the \$2,000.00 check had been issued. Consequently, Strasbourger's \$2,000.00 check was returned for insufficient funds in June 2009.

15. Between June and December 2009, Petitioner worked closely with Department attorney Russell Wheat to coordinate Petitioners' restitution payment to the Clarks under the *Consent Order*. Petitioner also worked with Mr. Wheat to correct Strasbourger's failed payment of the \$2,000.00 administrative fee after Petitioner learned Strasbourger's first check was returned.

16. During those discussions, an issue of confusion arose between Petitioner and Mr. Wheat as to how the restitution payment to the Clarks was to be calculated. Specifically, certain of the assets held by the Clarks upon which Petitioner and Strasbourger were required to pay restitution had not been appropriately valued. The confusion was exacerbated because after Strasbourger ceased operations and withdrew its license as a broker/dealer, the Clarks moved their holdings to a different firm and the Clarks did not immediately liquidate their holdings that were subject to the *Consent Order*. Consequently, determining the actual restitution amount was difficult.

17. The Clarks ultimately liquidated their holdings that were the subject of the *Consent Order*. After liquidation, the Clarks had sustained a total of \$2,497.00 in losses as a result of the their purchases that were the subject of the *Consent Order*.

18. Petitioner paid the Clarks \$2,497.00 to cover their losses. At that point, Petitioner's restitution obligation under the *Consent Order* was satisfied.

19. Likewise, in January 2010, Petitioner sent the State of Montana a check in the amount of \$2,000.00 to pay the administrative fee required under the *Consent Order*. The \$2,000.00 check was cashed by the State of Montana.

20. Despite Petitioner's payment of the \$1,500.00 contribution to the Investor Protection Fund, payment of the \$2,000.00 administrative fee to the State of Montana, and full payment of restitution to the Clarks, the Department filed a *Motion for Entry of Default* against Petitioner and Strasbourger.

21. The Commissioner entered the *Final Order* on May 18, 2010.

III.
THE *FINAL ORDER* WAS MADE UPON UNLAWFUL PROCEDURE, IN VIOLATION
OF PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS, AND IS
ARBITRARY AND CAPRICIOUS

22. Petitioner incorporates by reference the preceding paragraphs and the entire record of the proceedings before the Commissioner.

23. The Department's *Motion for Default* was premised upon the Department's filing of its *Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing* ("Agency Action") and its *Amended Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing* ("Amended Action").

1 24. Despite return receipts executed by an unknown person, Petitioner never received
2 copies of the *Agency Action* or the *Amended Action*. In other words, Petitioner did not receive
3 notice.

4 25. Indeed, when the Department filed the *Agency Action* and the *Amended Action*,
5 Petitioner was is frequent contact with Department attorney Wheat. During those communications,
6 Mr. Wheat never mentioned that the Department was seeking disciplinary action against Petitioner.
7 Instead, Mr. Wheat led Petitioner to believe that the issues regarding his compliance with the
8 *Consent Order* were being worked out.

9 26. Because Petitioner never received notice of the *Agency Action* or *Amended Action*,
10 Petitioner did not know that he had a duty to request a hearing with the Commissioner or be held in
11 default.

12 27. Sometime in December 2009, Petitioner's communications abruptly ceased.
13 Unbeknownst to Petitioner at the time, Mr. Wheat left terminated his position with the Department
14 in late December 2009.

15 28. On or about January 22, 2009, Petitioner was informed by Roberta Cross Guns,
16 counsel for the Department, of Mr. Wheat's termination of his position with the Department.
17 Petitioner attempted to continue the discussions he was having with Mr. Wheat about the *Consent*
18 *Order* with Ms. Cross Guns. Ms. Cross Guns notified Petitioner, for the very first time, that the
19 Department intended to move for default against Petitioner for his failure to respond to the *Agency*
20 *Action* and *Amended Action*. This was the first time Petitioner learned of the *Agency Action* and
21 *Amended Action*. However, by that time, the 15 day time periods for requesting hearings on the
22 *Agency Action* and *Amended Action* had passed.

23 29. After January 22, 2010, Petitioner attempted to explain to Ms. Cross Guns that he had
24 complied with the terms of the *Consent Order*, but to no avail. Petitioner also hired counsel in New
25 York to discuss the matter with Ms. Cross Guns, but Petitioner's counsel was unable to make
26 headway.

27 30. On April 2, 2010, the Department filed its *Motion for Default* against Petitioner. The
28 *Motion for Default* was not served on Petitioner or his counsel in New York.

31. Because Petitioner did not receive notice of the *Agency Action*, the *Amended Action*, or the *Motion for Entry of Default Judgment*, Petitioner was denied an opportunity for a hearing before the Commissioner.

32. The Commissioner issued the *Final Order* without allowing Petitioner an opportunity to present evidence to defend himself.

33. The *Final Order* is prejudicial to Petitioner because it requires him to pay significant fines (some of which he already paid) and pay restitution to the Clarks, although Petitioner has already made full restitution to the Clarks. Moreover, the *Final Order* is prejudicial to Petitioner because it bars him from obtaining licensing as a securities broker in the State of Montana.

34. The *Final Order* entered against Petitioner was made upon unlawful procedure.

35. The *Final Order* entered against Petitioner was made in violation of Petitioner's right to due process of the law under the Montana and United States Constitutions.

36. The *Final Order* entered against Petitioner was arbitrary or capricious, is characterized by an abuse of discretion or unwarranted exercise of discretion.

37. Petitioner is entitled to an order reversing the *Final Order*.

IV.
THE *FINAL ORDER* WAS CLEARLY ERRONEOUS IN VIEW OF RELIABLE,
PROBATIVE, AND SUBSTANTIAL EVIDENCE

38. Petitioners incorporate by reference the preceding paragraphs and the entire record of the proceedings before the Commissioner.

39. Petitioner was never provided notice or afforded an opportunity to defend himself against the allegations made by the Department upon which the *Final Order* is premised.

40. Because Petitioner never received proper notice of the Department's actions against him, good cause exists to allow Petitioner to raise arguments and evidence that Petitioner was unable to raise in the administrative record below. MCA §§ 2-4-702(1)(b) and 703.

41. Petitioner was prejudiced by his inability to present evidence to the Commissioner that Petitioner complied with his obligations under the *Consent Order* and the bases for the Department's *Agency Action* and *Amended Action* are unwarranted.

42. Petitioner is entitled to a hearing before this Court on the Department's *Amended*

1 *Action* at which Petitioner may present evidence demonstrating his compliance with the *Consent*
2 *Order* under MCA § 2-4-702(1)(b).

3 43. Alternatively, Petitioner is entitled to an order remanding this matter to the
4 Commissioner to conduct a hearing on the Department's *Amended Action* under MCA § 2-4-703.

5 44. Based upon the available evidence, the *Final Order* was clearly erroneous.

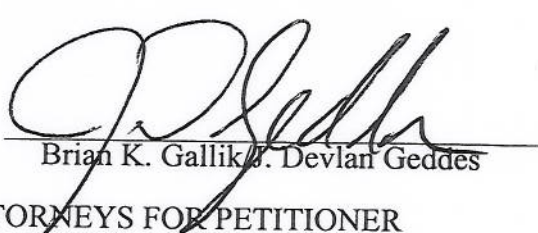
6 **RELIEF REQUESTED**

7 Petitioner seeks an **Order REVERSING** the *Final Order*; an **Order** finding good cause
8 exists to allow Petitioner to present evidence on the Department's *Amended Notice of Proposed*
9 *Agency Disciplinary Action*; a **HEARING** before this Court on the Department's *Amended Notice*
10 *of Proposed Agency Disciplinary Action*; or, alternatively an **Order REMANDING** this matter to
11 the Commissioner to conduct a hearing on the Department's *Amended Notice of Proposed Agency*
12 *Disciplinary Action*; and such other and further relief as this Court deems just and proper.

13 RESPECTFULLY SUBMITTED this 15th day of July, 2010.

14 GOETZ, GALLIK & BALDWIN, P.C.

15
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17 By:


18 Brian K. Gallik / Devlan Geddes

19 ATTORNEYS FOR PETITIONER
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VERIFICATION

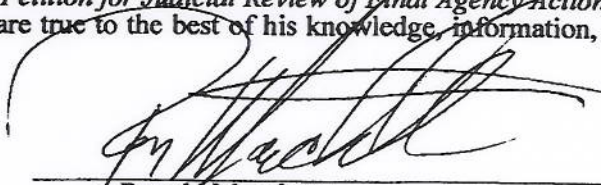
STATE OF NEW YORK)
COUNTY OF _____ :SS

Ronald Moschetta, being first duly sworn, on oath deposes and says:

That he is the Petitioner in the above-described action;

That he has read the foregoing *Verified Petition for Judicial Review of Final Agency Action*;
and


The facts set forth in the *Verified Petition for Judicial Review of Final Agency Action* are based upon his personal knowledge and are true to the best of his knowledge, information, and belief.



Ronald Moschetta

SUBSCRIBED AND SWORN TO before me this 15th day of July, 2010.

(SEAL)

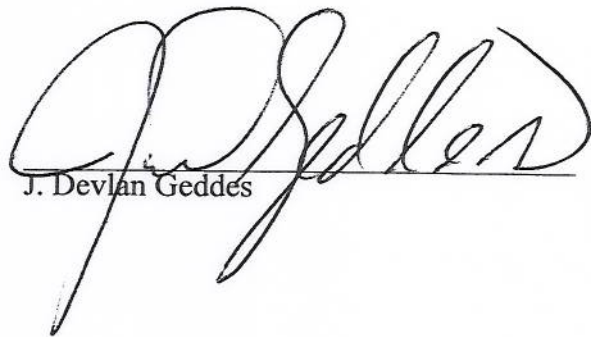
Printed Name: Gail Liebman
Notary Public for the State of New York
Residing at _____, New York
My commission expires: 11/14/2011
Notary Public, State of New York
No. 01116177794
Qualified in Nassau County
Commission Expires 11/14/2011

7/15/10

1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that the foregoing document was served upon the following
3 counsel of record, by U.S. First Class Mail, postage prepaid, on the 15th day of July, 2010:

4 Roberta Cross Guns
5 State Auditor's Office
6 840 Helena Ave.
7 Helena, MT 59601

8 Hartley T. Bernstein, Esq.
9 Bernstein Levine Cherney LLP
10 777 Third Avenue, 24th Floor
11 New York, New York, 10017
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J. Devlan Geddes

COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR'S OFFICE
HELENA, MONTANA

IN THE MATTER OF

RONALD MOSCHETTA,
individually and in his capacity as a
securities salesperson for Strasbourger Pearson
Tulcin Wolff Inc., and

STRASBOURGER PEARSON TULCIN
WOLFF INC.
600 Old Country
Garden City, NY 11530

Respondents.

CASE NO. SEC-2009-14

**FINAL AGENCY DECISION
AND ORDER**

The Commissioner of Insurance and Securities, office of the State Auditor (CSI) having fully read and considered the matters set forth in the Motion for Entry of Default Judgment; the Department's Proposed Findings of Fact, Conclusions of Law and Proposed Order submitted by the Department of Securities (Department), by and through its legal counsel, Roberta Cross Guns, and the Notice of Entry of Default Judgment that has been entered in the matter, as well as a review of the relevant law, the Commissioner issues the following:

FINDINGS OF FACT

Having reviewed the complete record in these proceedings, the Commissioner hereby adopts the Findings of Fact as follows:

1. Respondents Ronald Moschetta, individually and in his capacity as a securities salesperson for Strasbourger Pearson Tulcin Wolff Inc. (Moschetta), and Strasbourger Pearson Tulcin Wolff Inc. (Strasbourger) (collectively "Respondents") engaged in securities transactions

in certain customer accounts without proper registration to conduct such business in Montana from September 5, 2008 to present. (Consent Agreement dated April 20, 2009.)

2. Respondents solicited the following securities transactions without being registered to conduct such business in the state of Montana (Consent Agreement):

Client	Purchased	Description	Symbol	Initial Price	Close a/d 3/18/2009	Gain/Loss
Investor 1	1000	Freddie Mac General	FRE	\$ 4.83	\$ 0.82	\$ (4,829.18)
Investor 1	1000	Motors Micron	GM	\$10.52	\$ 2.64	(10,517.36)
Investor 1	1500	Technology	MU	\$ 4.23	\$ 3.77	\$ (6,341.23)
Investor 1	100	Teco Energy General	TE	\$16.02	\$11.12	\$ (1,590.79)
Investor 1	25000	Motors Deb 8.375 7/15/33 General	GM.HB	\$ 51.75	\$13.25	\$(12,924.25)
Investor 1	25000	Motors Deb 8.375 7/15/33 General	GM.HB	\$ 37.85	\$13.25	\$ (9,449.25)
Investor 2	50000	Motors Deb 8.375 7/15/33	GM.HB	\$ 22.13	\$13.25	\$ (5,518.00)
						\$(51,170.06)

3. The Department and the Respondents Moschetta and Strasbourger entered into a formal Consent Agreement wherein Respondents agreed to pay a fine of \$2,000; restitution in the amount of \$51,170.06; and a contribution to the Investor Protection Fund of \$1,500. The Consent Agreement contained a clause tolling the statute of limitations and seeking up to \$40,000 in fines and a permanent ban on registration and licensure in Montana should Respondents fail to abide by the terms. (Consent Agreement.)

4. Respondents sent a check for \$2,000 to the State of Montana as payment of the fine they agreed to in the Consent Agreement. The check was subsequently returned for non-

sufficient funds. Respondents refused to provide sufficient funds to cover the check or a new check to pay the fine they agreed to pay. (Affidavit of Sharon McCabe dated February 1, 2010.)

5. Respondents paid \$1,500 to the Investor Protection Trust as agreed in the Consent Agreement.

6. Respondents failed to repay one victim \$50,000 restitution as required by the Consent Agreement. (Affidavit of Stephanie Clark dated March 24, 2010.)

7. The Department filed a Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Agency Action) seeking to enforce the Consent Agreement on or about July 2, 2009. Respondents were served by certified mail, return receipt requested. Respondents signed for the certified mail on or about July 6, 2009, as evidenced by the return receipt. (Exhibit D to Motion for Entry of Default Judgment.)

8. Respondents failed to request a hearing within the 15 days provided in the Agency Action.

9. The Department filed an Amended Notice of Proposed Agency Disciplinary Action and Opportunity for Hearing (Amended Action) on or about October 30, 2009. Respondents were served a copy of the Amended Action by certified mail, return receipt requested. Respondents signed for the certified mail on or about November 4, 2009, as evidenced by the return receipt. (Exhibit E to Motion for Entry of Default Judgment.)

10. The Amended Notice sought an additional \$40,000 fine for violation of the Consent Agreement and a permanent ban on registration or licensure for the Respondents.

11. Respondents failed to contest the proposed amended action or the relief requested in the action. Nor did they request a hearing within the 15 days provided in the Amended Action.

12. A Request for Entry of Default was filed on March 4, 2010.
13. Notice of Entry of Default was entered against the Respondents on March 4, 2010.
14. A Motion for Entry of Default Judgment with support exhibits attached was filed on April 2, 2010.
15. On April 26, 2010, the Department filed Proposed Findings of Fact, Conclusions of Law and Order in support of a default judgment against the Respondents.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commissioner hereby makes the following Conclusions of Law:

1. The State Auditor is the Commissioner of Securities pursuant to Mont. Code Ann. §§ 2-15-1901 and 30-10-107.
2. The administration of the Securities Act of Montana, Mont. Code Ann. §30-10-101, *et seq.*, is under the supervision and control of the Securities Commissioner. Mont. Code Ann. § 30-10-107.
3. The Securities Act of Montana shall be construed to protect investors, persons engaged in securities transactions, and the public interest. Mont. Code Ann. § 30-10-102.
4. Respondents violated Mont. Code Ann. § 30-10-201, by soliciting seven trades without properly registering with the state.
5. Respondents violated §§ 30-10-201(13) (i), by failing to fully comply with a consent agreement, including payment of a fine, entered into with the Department. Montana Code Ann. § 30-10-201(18).

ORDER

From the foregoing Findings of Fact and Conclusions of Law, the Commissioner enters the following Order:

1. Respondents Moschetta and Strasbourger are ordered to comply with the consent agreement and are jointly and severally liable for:
 - a. paying an administrative fine to the State of Montana in the amount of \$2,000;
and
 - b. paying restitution to Montana consumers, Barry and Stephanie Clark, in the amount of \$50,000.00.

2. Respondents are ordered to pay an additional administrative fine of \$40,000 for violating the terms of the consent agreement and failing to file an appearance in the Amended Notice of Agency Action and Opportunity for Hearing. Respondents are jointly and severally liable for the \$40,000 fine.

3. Respondent Moschetta's application for registration and license in Montana is hereby ordered to be permanently denied for violating the provisions of the consent agreement, pursuant to Mont. Code Ann. § 30-10-201(13) (i).


4. Respondent Strasbourger's application for registration and license in Montana is hereby ordered to be permanently denied for violating the provisions of the consent agreement, pursuant to Mont. Code Ann. § 30-10-201(13) (i).

NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW

Respondents are hereby notified of their right to request judicial review of this Final Agency Decision and Order by filing a petition for judicial review within 60 days of service of

this Final Agency Decision and Order with the First Judicial District Court in Lewis and Clark County, Montana, as provided in Mont. Code Ann. §§ 2-4-702 and 30-10-308.

SO ORDERED this 18th day of May, 2010.


MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

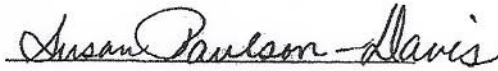
I do hereby certify I served a copy of the foregoing Final Agency Decision and Order upon all parties of record on the 18th day of May, 2010, by U.S. Mail or hand delivering a copy thereof to:

Roberta Cross Guns
State Auditor's Office
840 Helena Avenue
Helena, MT 59601

Ronald Moschetta
Strasbourger Pearson Tulcin Wolff Inc
600 Old Country
Garden City, NY 11530

Strasbourger Pearson Tulcin Wolff Inc
600 Old Country
Garden City, NY 11530

Hartley T. Bernstein, Esq.
Bernstein Levine Cherney LLP
777 Third Avenue, 24th Floor
New York, New York 10017



Russell Wheat
Special Assistant Attorney General
Montana State Auditor
840 Helena Avenue
Helena, MT 59604-4009
406-444-2040 phone
406-444-3497 fax
rwheat@mt.gov

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF SECURITIES
HELENA, MONTANA

IN THE MATTER OF:

RONALD MOSCHETTA, individually and
in his capacity acting as a broker-dealer
salesperson and investment advisor
representative; and

STRASBOURGER PEARSON TULCIN
WOLFF, INC., a broker-dealer firm

Respondents.

CASE NO. 03-16-09-2841

CONSENT AGREEMENT and
ORDER

This Consent Agreement dated this 20th day of March, 2009, is between the
Montana Securities Department ("Department"), acting pursuant to the authority of the
Securities Act of Montana, Mont. Code Ann. § 30-10-101 *et seq.* (the "Act") and
Strasbourg Pearson Tulcin Wolff, Inc. ("Strasbourg"), and Ronald Moschetta
("Moschetta").

RECITALS

WHEREAS, the Department initiated this case alleging violations of the Act by
Strasbourg, and Moschetta, (collectively "Respondents") by making unregistered
solicited securities transactions from September 5, 2008 to present; and

EXHIBIT

2

WHEREAS, the Department has engaged in extensive investigation of the allegations contained within the case; and

WHEREAS, the Department and Respondents have agreed that the best interests of the public would be served by dismissing the case and proposed action with respect to the Respondents and entering into the agreements and undertakings specified herein.

NOW THEREFORE, in consideration of the mutual undertakings herein contained, the Department and Respondents hereby agree to resolve their differences and settle this matter pursuant to the following terms and conditions:

SUMMARY OF ALLEGATIONS

The Action includes allegations that Respondents and its agents or employees named in this case engaged in securities transactions in certain customer accounts without proper registration to conduct such business in Montana.

STIPULATIONS AND CONSENTS

The parties jointly and mutually consent and agree as follows:

A. Without admitting or denying any of the allegations contained within the case, Respondents stipulate and consent to the following:

1. To offer rescission of refund fees and commissions to its Montana customers whose transactions are the basis of this case. The refunds are in the following accounts for the indicated amounts:

Investor	Shares	Company	Symbol	Cost	Commission	Refund
Investor 1	1000	Freddie Mac General	FRE	\$ 4.83	\$ 0.82	\$ (4,828.18)
Investor 1	1000	Motors Micron	GM	\$10.52	\$ 2.84	\$ (10,517.36)
Investor 1	1500	Technology	MU	\$ 4.23	\$ 3.77	\$ (6,341.23)
Investor 1	100	Teco Energy	TE	\$16.02	\$11.12	\$ (1,590.79)

Investor 1	25000	General Motors Deb 8.375 7/16/33	GM.HB	\$ 51.75	\$13.25	\$ (12,924.25)
Investor 1	25000	General Motors Deb 8.375 7/15/33	GM.HB	\$ 37.85	\$13.25	\$ (9,449.25)
Investor 2	50000	General Motors Deb 8.375 7/15/33	GM.HB	\$ 22.13	\$13.25	\$ (5,518.00)
						\$(51,170.06)

2. To pay an administrative fine to the State of Montana of \$2,000 pursuant to Mont. Code Ann. § 30-10-305(3).
3. To make a contribution to the Investor Protection Fund for the benefit of Montana investors in the amount of \$1,500.
4. To comply with the terms and conditions of this Consent Agreement and with the securities laws and regulations and the insurance code and regulations of Montana.
5. The applicable statute of limitation pursuant to Mont. Code Ann. § 30-10-305 is tolled for two years from the date of execution of this Consent Agreement with regard to the allegations set forth above. In the event Respondents violate the terms of this Consent Agreement at any time during the two-year tolling period, the State Auditor's Office reserves the right to seek additional fines up to \$40,000 and to seek a permanent ban on registration or filings by Respondents.
6. The Commissioner, pursuant to authority of the Securities Code of Montana and the applicable statutes found in the Montana Administrative Procedures Act, agrees that if the terms and conditions of this Consent Agreement are fully met, the Commissioner will not initiate any civil, administrative or other judicial proceeding against Respondents regarding the allegations contained in this Agency case.

7. In consideration for the Commissioner's dismissal of the Agency's case, Respondents fully and forever release and discharge the Office of the State Auditor and its employees from any and all actions, claims, causes of actions, demands, or expenses for damages or injuries, arising from the Agency's investigation.

8. Respondents waive their rights to any hearings on the allegations.

9. Respondents understand that the Consent Agreement is part of the Commissioner's files, and is, therefore, a public record.

B. Pursuant to the stipulations, agreements and consents of Respondents, the Department, under the authority of the Act and Mont. Code Ann. § 2-4-603, hereby agrees that the Department has determined and shall execute contemporaneous with the Consent Agreement such documents and take such actions as are required to dismiss the case with prejudice with respect to the Respondents.

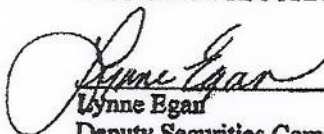
C. All parties to this Consent Agreement agree and acknowledge:

1. This Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied. Under authority of the Act, the Department hereby agrees that it will not initiate any civil or administrative action against Respondents regarding the allegations contained in the Action.

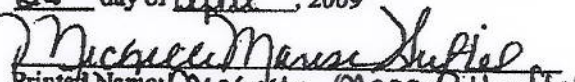
2. Respondents fully and forever release and discharge the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Consent Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the Action.

DATED this 24th day of April, 2009.

MONTANA SECURITIES DEPARTMENT

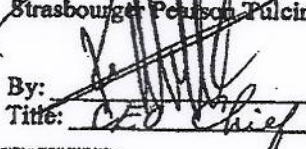

Lynne Egan
Deputy Securities Commissioner

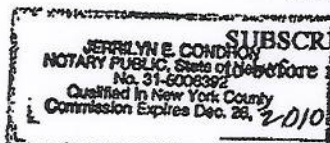
SUBSCRIBED AND SWORN to before me this
24th day of April, 2009


Printed Name: Michelle Marsel
Notary Public for the State of Montana
Residing at Helena, Montana
My commission expires: March 29, 2012

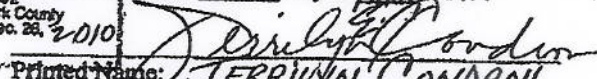
DATED this 22 day of April, 2009.

Strasbourger, Pearson, Tulcin Wolff, Inc.

By: 
Title: CEO Chief Executive Officer RONALD MOSCHETTA



SUBSCRIBED AND SWORN
before me this 22 day of April, 2009.


Printed Name: TERRILYN E. CONDON
Notary Public for the State of: NEW YORK
Residing at: 80 BENNETT AVE. NYC 10033
My commission expires: 12/28/2010

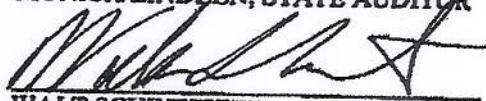
ORDER

Pursuant to the authority vested by the Montana Securities Code, Mont. Code Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and good cause appearing therefore, and for the purpose of settling this matter prior to a hearing, the Commissioner orders Respondents to offer restitution in the amount of \$51,170.06, pay a fine of \$2,000 and make a contribution of \$1,500 to the Investor Protection Fund for the benefit of Montana investors. The Commissioner further orders Respondent to comply with the Securities Act of Montana and the rules promulgated thereunder.

IT IS ORDERED that the foregoing Consent Agreement between the Commissioner, Securities Department, Strasbourger, and Ronald Moshcetta is hereby adopted as if set forth fully herein.

Dated this 24th day of Apr., 2009.

MONICA LINDEEN, STATE AUDITOR



By: WALT SCHWEITZER
Title: DEPUTY SECURITIES COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of APRIL, 2009, I served a true and accurate copy of the foregoing Consent Agreement and Final Order upon the Respondent and Department, by mail, postage prepaid, or by hand-delivery at the following address:

Ronald Moschetta
600 Old Country
Garden City, NY 11530

Strasbourger Pearson Tulcin Wolff Inc.
600 Old Country
Garden City, NY 11530

A handwritten signature in black ink, appearing to be "Ronald Moschetta", is written over a horizontal line.